IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.M.JAMES

WEDNESDAY, THE 8TH NOVEMBER 2006 / 17TH KARTHIKA 1928

Bail Appl..No. 5313 of 2006()

CP.152/2005 of J.M.F.C.-II,KOTTARAKKARA
C.R.NO.113/2003 OF CHADAYAMANGALAM EXCISE RANGE.

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PETITIONER:

UNNI PILLAI, S/O. VASU PILLAI,
651, GOPINATHAN VILASAM, 3, VILANGARA,
UMMANNOOR VILLAGE.

BY ADV. SRI.D.JAYACHANDRAN

RESPONDENTS: COMPLAINANT.

STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 08/11/2006, ALONG WITH BA NO. 5947 OF 2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

J.M. JAMES, J.

Bail Application No.5313 & 5947 of 2006

Dated this the 8th November, 2006.

O R D E R

Petitioner in B.A.Nos.5313/2006 & 5947/2006 are one and the same person. Both these applications are filed under Section 438 Cr.P.C. for pre-arrest order. Former application is filed C.R.No.113/2003 of Chadayamangalam Excise Range, and the latter in C.R.No.80/2006 of the same Excise Range, for the offence punishable under Section 8(1) & (2) of the Abkari Act. In C.R.No.113/2003, the investigation is complete, and the matter is now pending as C.P.No.152/2005, on the file of the Judicial First Class Magistrate Court-II, Kottarakkara, and in C.R.No.80/2006, the matter is pending investigation, submits the counsel.

2. Heard both sides. The prosecution submits that the petitioner is also an accused in C.R.No. 94/1999 of the same Excise Range and he was on bail. It is also submitted that he committed other crimes, while on bail in the earlier cases. Further submission is that there are about five cases registered against the petitioner under the Abkari Act.

3. Counsel appearing for the petitioner, on the other hand, submits that the name and address mentioned in each crime is different, and, therefore, there is mistaken identity of the petitioner. The prosecution,

however, submits that in C.R.No.94/1999, the name of the petitioner is stated as Unnikrishnan Pillai, S/o.Vasudevan Pillai, and the same name and address, as above, are seen recorded by the investigating officers of both these crimes, as well.

4. Without going into the submissions and merit of the matter, I dispose of these applications, directing the petitioner to surrender before the Investigating Officer, the Inspector of Chadayamangalam Excise Range, in both these cases, on 16.11.2006, between 9.30 and 10 a.m.

5. The investigating officer shall interrogate the petitioner in the respective cases, if found necessary, and thereafter produce him before the competent Magistrate court, as per the law.

6. On production, the learned Magistrate shall hear both sides, considering the contentions that may be raised by both the petitioner as well as the prosecution, and pass appropriate orders, preferably on the date of production itself.

J.M. JAMES,
JUDGE

nj.